



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 24, 1995

Ms. Lizbeth Islas  
Assistant City Attorney  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR95-195

Dear Ms. Islas:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31516.

The City of Dallas (the "city") received a request for "a copy of the Internal Affairs Division investigation" concerning the disorderly conduct arrest of the requestor. You claim that the requested information is excepted from required public disclosure under section 552.108 of the Government Code.

Section 552.108 provides that:

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure].
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure].

Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, any proper custodian of information which relates to the incident may invoke section 552.108. Open Records Decision Nos. 474 (1987); 372 (1983). Certain factual information generally found on the front page of police offense reports, however,

is public even during an active investigation. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) at 3-4 (listing factual information available to public). We note that the content of the information not the placement of the information on the offense report determines whether the information must be released under the *Houston Chronicle Publishing Co.* case. The information identified by the court in *Houston Chronicle Publishing Co.*, 531 S.W.2d at 186-87, as information generally found on the first page of the offense report must be released regardless of where it is found. See Open Records Decision No. 127 (1976) at 5.

You state that the disorderly conduct case, cause number J94-048330-01, is set for trial on April 24, 1995. Accordingly, you may withhold the requested information under section 552.108 of the Government Code except for the type of information generally found on the front page of an offense report. To determine what information must be released, you will need to examine the type of information rather than its location. For your convenience, we have enclosed an excerpt from Open Records Decision No. 127, which lists the types of information that must be disclosed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll  
Assistant Attorney General  
Open Government Section

MAR/LBC/rho

Ref: ID# 31516

Enclosures: Marked documents  
Excerpt from Open Records Decision No. 127

cc: Mr. Christopher G. Brady  
115 N. Jack Kultgen Fwy. #243  
Waco, Texas 76704  
(w/o enclosures)